

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAMES JOSEPH JULUKE, JR.,)	
an individual,)	
)	Case No.: 3:14-cv-03271-M
Plaintiff,)	
v.)	
)	
RETAIL SWC MALL LLC,)	
a Texas Limited Liability Company,)	
)	
Defendant.)	
_____)	

STATE OF FLORIDA)	
)	
COUNTY OF MIAMI DADE)	


Louis I. Mussman, being duly sworn, deposes and says:

1. I am a member licensed to practice in the State of Florida and am admitted to the Bar of the Northern District of Texas. I am a partner of the firm of Ku & Mussman, P.A., attorney for Plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.
2. I make this affidavit pursuant to Fed. R. Civ. P. 55(b), in support of Plaintiff's request for entry of default against Defendant RETAIL SWC MALL LLC.
3. This is an action for injunctive relief and attorneys' fees and costs pursuant to Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. and statutory damages pursuant to Chapter 121.004(b) of the Texas Human Rights Code.


4. Jurisdiction of the subject matter of this action is based on 28 U.S.C. §§ 1331 and 1343.
5. This Court has personal jurisdiction over the Defendant.
6. To the best of my knowledge Defendant is not infant or incompetent.
7. This action against Defendant was commenced on September 10, 2014, by the filing of the summons and complaint. A copy of the summons and complaint was properly served on Defendant RETAIL SWC MALL LLC on September 17, 2014 and proof of the service was filed with the Court on September 30, 2014. [Dkt. No. 5]. However, the Defendant has not answered the Complaint and the time for the Defendant to answer the Complaint has expired.
8. This action seeks declaratory and injunctive relief to bring the Defendant's property into compliance with the regulations of the ADA, and reasonable attorneys' fees, costs and other expenses of the suit.
9. Specifically, Plaintiff seeks an injunction directing the Defendant to remediate the following barriers to access at its property:
 - a. Inaccessible parking designated as accessible near Burlington Coat Factory, Macy's and Sears due to excessive slopes making it difficult to transfer between his wheelchair and a vehicle safely.
 - b. Inaccessible disabled use parking due to low signage (to mark the space exclusively for disabled use) throughout the Property. Additionally, inaccessible disabled use parking due to parking spaces with narrow access aisles throughout the Property.

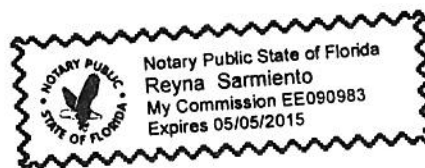
- c. Inaccessible curb ramps due to excessive slopes with steep side flares throughout the Property making it difficult to traverse the curb ramps safely; and
 - d. Inaccessible sidewalk routes throughout the Property with excessive slopes making it difficult to maneuver around the Property safely.
10. Attorneys' fees and costs to date are \$6,840.00.
11. Plaintiff is entitled to have his reasonable attorneys' fees, costs, and expenses paid by Defendant RETAIL SWC MALL LLC pursuant to 42 U.S.C. § 12205.
12. Additionally, by maintain and/or failing to remove the above referenced barriers to access, Defendant is liable for statutory damages under Chapter 121.004(b) of the Texas Human Rights Code in the amount of \$300.00 for each of the four (4) violations discussed above for a total statutory damage amount of \$1,200.00.

WHEREFORE, Plaintiff requests the entry of Default against Defendant RETAIL SWC MALL LLC.


Louis I. Mussman

Sworn to me before this 17th
day of February, 2015.


Notary Public



Personally Known ✓ OR Produced Identification _____
Type of Identification Produced _____